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(c) The rates developed pursuant to this section shall remain in effect until a facility submits a twelve-month cost report in accordance with section 86-2.2(e) of this Subpart for a twelve-month period during which the facility had an overall average utilization of at least 90 percent of bed capacity. This cost report shall be used to adjust the direct, indirect, noncomparable and capital components of the rate effective on the first day of the cost report.

(d) All rates of reimbursement certified pursuant to this section shall be subject to audit pursuant to section 86-2.7 of this Subpart. After audit, the facility shall receive a rate based upon actual allowable costs incurred during the rate period and computed in accordance with section 86-2.10 of this Subpart. Except as described in section 86-2.19(d)(2) of this Subpart, ~~an~~ an occupancy rate of not less than 90 percent shall be used when calculating the capital and noncomparable components in rate calculation.

(e) Notwithstanding the provisions of this section, an operator of a facility which has had an overall average utilization of at least 90 percent of bed capacity for a six-month period which began prior to April 1, 1993 but after the date on which the operator began operations shall submit a six-month cost report for that period. Such six-month cost report shall be utilized for purposes of this section in lieu of the twelve-month cost report identified in subdivision (e) of section 86-2.2 of this Subpart.

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(6) Long-term inpatient rehabilitation program for traumatic brain-injured residents (TBI). A facility which is approved to operate discrete units for the care of residents under the long-term inpatient rehabilitation program for TBI patients shall have separate and distinct payment rates established pursuant to this subdivision as follows:

(i) For the first three months of operation, the direct component shall be equivalent to the statewide mean direct case mix neutral cost per day established pursuant to subparagraph (iii) of paragraph (3) of subdivision (c) of section 86-2.10 increased by a factor of 3.28 and adjusted by the RDIPAF pursuant to section 86-2.10. The direct component shall be further increased by an occupancy factor of 1.225 for the first six months of operation. The facility shall perform an assessment of all residents, pursuant to section 86-2.30, at the beginning of the fourth month of operation and at the beginning of each third month for the period set forth in paragraph 1 of this subdivision. Effective on the first day of the month of each assessment period, the direct component of the rate shall be adjusted pursuant to subdivision (c) of section 86-2.10 based on the facility's case mix. The case mix index which is used to establish the facility specific mean direct price per day for each patient classification group pursuant to

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paragraph (4) of subdivision (c) of section 86-2.10 for TBI residents shall be increased by an increment of 1.49.

(ii) The indirect component of the rate shall be equivalent to the mean indirect price developed pursuant to section 86-2.10(d) of this Subpart for the applicable peer group established for high intensity case mix identified in paragraph (2) of subdivision (d) of section 86-2.10, adjusted by the RIPAF pursuant to 86-2.10(d). The indirect component shall be further adjusted by an occupancy factor of 1.225 for the first six months of operation.

(iii) The noncomparable component of the rate shall be determined as follows:

(a) For an existing facility that opens a discrete unit for the care of patients under the long-term inpatient rehabilitation program for TBI patients, the noncomparable component of the rate shall be equal to the noncomparable component of the existing residential health care facility's rate computed pursuant to subdivision (f) of section 86-2.10 plus approved budgeted costs for personnel required by the Department to operate a TBI unit that would be reported in the functional cost centers identified in subdivision (f) of section 86-2.10.

(b) For a new facility without a residential health care facility rate computed pursuant to section 86-2.10, the noncomparable component of the rate shall be determined in accordance with paragraph (3) of this subdivision.

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(iv) Rates established pursuant to this paragraph shall also include an adjustment pursuant to section 86-2.10(u) of this Subpart.

~~{(iv) The provisions of this paragraph will expire on December 31, 1994.}~~

(7) Long-term ventilator dependent residents. A facility which is approved to operate discrete units for the care of long-term ventilator dependent patients as established pursuant to ~~section 415.38 of this Title~~ Appendix 2 of this State Plan shall have separate and distinct payment rates established pursuant to this subdivision as follows:

(i) For the first three months of operation, the direct component shall be equivalent to the statewide mean direct case mix neutral cost per day established pursuant to section 86-2.10(c)(3)(iii) of this Subpart increased by a factor of 2.89 and adjusted by the RDIPAF pursuant to section 86-2.10 of this Subpart. The direct component shall be further increased by an occupancy factor of 1.225 for the first six months of operation. The facility shall perform an assessment of all residents, pursuant to section 86-2.30 of this Subpart, at the beginning of the fourth month of operation and at the beginning of each third month for the period set forth in paragraph 1 of this subdivision. Effective on the first day of the month of each assessment period, the direct component of the rate shall be adjusted pursuant to this Subpart based on the facility's case

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mix. The case mix index which is used to establish the facility specific mean direct price per day for each patient classification group pursuant to paragraph (4) of subdivision (c) of section 86-2.10 for long-term ventilator dependent residents shall be increased by an increment of 1.15.

(ii) The direct component of the rate shall be equivalent to the mean indirect price developed pursuant to section 86-2.10(d) for the applicable peer group established for high intensity case mix identified in paragraph (2) of subdivision (d) of section 86-2.10, adjusted by the RIPAF pursuant to section 86-2.10(d). The indirect component shall be further adjusted by an occupancy factor of 1.225 for the first six months of operation.

(iii) The noncomparable component of the rate shall be determined as follows:

(a) For an exiting facility that is approved to operate discrete units for the care of long-term care ventilator residents, the noncomparable component of the rate shall be equal to the noncomparable component of the existing residential health care facility's rate computed pursuant to subdivision (f) of section 86-2.10 plus approved budgeted costs as identified in clauses (c) and (d) of this subparagraph plus approved budgeted costs for personnel required by the Department to operate a ventilator-dependent unit that would be reported in the functional cost centers identified in subdivision (f) of section 86-2.10.

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(b) For a new facility without a residential health care rate computed pursuant to section 86-2.10 of this Subpart, the noncomparable component of the rate shall be determined in accordance with paragraph (3) of this subdivision and include approved budgeted costs identified in clauses (c) and (d) of this subparagraph.

(c) The approved budgeted costs for the central service supply functional cost center as listed in section 86-2.10(c)(1) of this Subpart shall be considered a noncomparable cost reimbursed pursuant to section 86-2.10(f) of this Subpart.

(d) The approved budgeted costs for prescription drugs, specifically required by generally accepted standards of professional practice for long-term ventilator dependent residents, that are administered at a frequency and volume exceeding those of prescription drugs included in the direct component of the rate pursuant to subdivision (c) of this section shall be considered a noncomparable cost pursuant to ~~{subdivision (f) of this}~~ section 86-2.10(f) of this Subpart.

(iv) Rates established pursuant to this paragraph shall also include an adjustment pursuant to 86-2.10(u) of this Subpart.

~~{(v) The provisions of this paragraph will expire on December 31, 1994.}~~

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(8) Specialized programs for residents requiring behavioral interventions. A facility which is approved to operate discrete units specifically designated for the purpose of providing specialized programs for residents requiring behavioral interventions as established by the Department shall have separate and distinct payment rates established pursuant to this subdivision as follows:

(i) For the first three months of operation, the direct component shall be equivalent to the statewide mean direct case mix neutral cost per day established pursuant to subparagraph (iii) of paragraph (3) of subdivision (c) of section 86-2.10 of this Subpart increased by a factor of 2.65 and adjusted by the RDIPAF pursuant to section 86-2.10. The direct component shall be further increased by an occupancy factor of 1.225 for the first six months of operation. The facility shall perform an assessment of all residents, pursuant to section 86-2.30 of this Subpart, at the beginning of the fourth month of operation and at the beginning of each third month for the period set forth in paragraph 1 of this subdivision. Effective on the first day of the month of each assessment period, the direct component of the rate shall be adjusted pursuant to section (c) of this Subpart based on the facility's case mix. The case mix index which is used to establish the facility specific mean direct price per day for each patient classification group pursuant to

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paragraph (4) of subdivision (c) of section 86-2.10 for residents requiring behavioral interventions shall be increased by an increment of 1.40.

(ii) The indirect component of the rate shall be equivalent to the mean indirect price developed pursuant to section 86-2.10 for the applicable peer group established for high intensity case mix identified in paragraph (2) of subdivision (d) of section 86-2.10, adjusted by the RIIPAF pursuant to section 86-2.10(d). The indirect component shall be further adjusted by an occupancy factor of 1.225 for the first six months of operation.

(iii) The noncomparable component of the rate shall be determined as follows:

(a) For an existing facility that is approved to operate discrete units specifically designated for the purpose of providing specialized programs for residents requiring behavioral interventions, the noncomparable component of the rate shall be equal to the noncomparable component of the existing residential health care facility's rate computed pursuant to subdivision (f) of section 96-2.10 plus required approved budgeted costs for personnel that would be reported in the functional cost centers identified in subdivision (f) of section 86-2.10 of this Subpart.

(b) For a new facility without a residential health care rate computed pursuant to section 86-2.10, the noncomparable component of the rate shall be determined in accordance with paragraph (3) of this subdivision.

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(iv) Rates established pursuant to this paragraph shall also include an adjustment pursuant to section 86-2.10(u).

~~[(v) The provisions of this paragraph will expire on
December 3, 1994.]~~

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86-2.16 Less expensive alternatives. Reimbursement for the cost of providing services may be the lesser of the actual costs incurred or those costs which could reasonably be anticipated if such services had been provided by the operation of joint central service or use of facilities or services which could have served effective alternatives or substitutes for the whole or any part of such service.

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